

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NIHAL ERKAN, individually, and On

Behalf of All Others Similarly Situated,

Plaintiff,

vs.

Case No.: 1:23-cv-09553

DAVID A. HIDALGO, MD, P.C.,

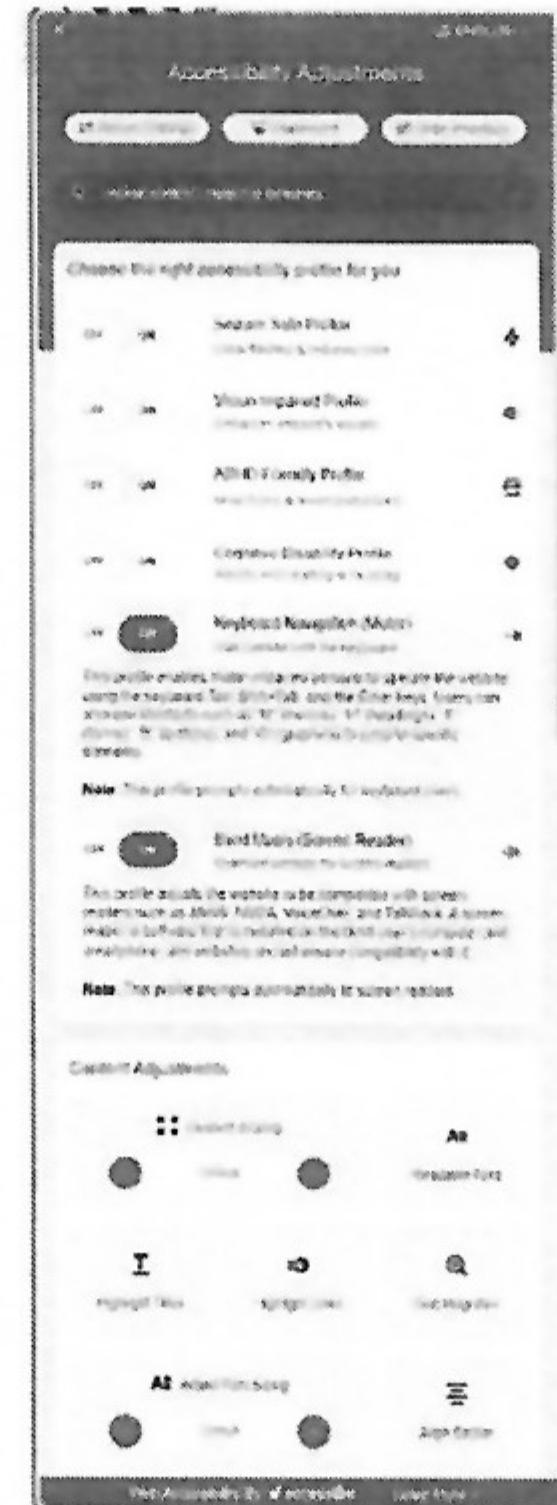
Defendant.

Declaration / Report of Robert D Moody

I, Robert D. Moody, declare that I have read the preceding instrument, and the facts and information stated in it are true and correct to the best of my knowledge. I am personally acquainted with the facts stated herein.

1. I am the President, CEO, and Founder of Forensic Data Services, Inc. (d/b/a FDS Global) (hereafter referred to as FDS), a company based in Broward County, Florida.
2. My company was retained by Mars Khaimov Law, PLLC., counsel for the benefit of its client(s), Nihal Erkan, and all similarly situated clients.
3. The Plaintiff, Nihal Erkan, has established that he is visually impaired and asserts his rights under the Americans with Disability Act (ADA).
4. I have been retained to provide consulting services, including website auditing, which includes compliance, usability, and accessibility standards (WCAG 2.0), as well as general functionality analysis for disabled users.
5. My duties with FDS include being the principal investigator and testifying expert.
6. My compensation is set at the hourly rate of \$450 per hour for technical work and \$750 per hour for testifying and preparation for testifying.

7. My compensation for my consulting services and the generation of this Declaration / Report is capped at \$2,500.00. All other consulting work and all testimony will be at the above rate.
8. I am certified in Information Systems Auditing, Information Security, and Computer Forensics. Additionally, I have received training relating to my work in this matter and provided my CV to fully describe my education, certification, training, and testifying background. My CV is attached as **Exhibit 1**.
9. Specific to websites and their functionality, I have experience in the design, layout, coding, auditing, and testing of functionality, security, and operability of websites and their content.
10. Regarding ADA Compliance, I have audited, directed, and directly supervised more than 5,000 websites to date. This work includes sites for all major industries operating on many different platforms.
11. My work has identified websites that were both WCAG-compliant and non-compliant with WCAG.
12. For the websites found to be non-compliant, defendants have often relied on my work to bolster their remediation efforts and effectively correct the issues they faced.
13. In the present matter, FDS, with me as the principal investigator, was retained by Plaintiff's counsel on behalf of Plaintiff, a visually impaired user of the internet, to determine whether the website(s) of 3 Times 90, Inc., had issues that could not be overcome and acted as barriers to their use and enjoyment of the website.
14. In this case, the Defendant's website consists of a single URL. The URL examined was:
 - a. <https://www.drdavidhidalgo.com>
15. The Plaintiff alleges the following issues:
 - a. Issues with the accessibility widget causing the Plaintiff's screen reader to stop working.
 - b. Landmarks were not correctly inserted into the home page.
 - c. Keyboard focus was not correctly configured.
 - d. Navigation did not announce its state, which confused the Plaintiff.
 - e. Images had issues with alternative text.
 - f. Link issues exist.
 - g. Forms had issues.
16. I examined the Defendant's website, which has an accessibility widget engaged.



17. Regarding the claims or types of claims made by the Plaintiff, I found that the issues identified by the Plaintiff or similar issues did exist.

18. Additionally, the Defendant's website revealed the following issues:

1. Elements must meet minimum color contrast ratio thresholds.
2. Links must be distinguishable without relying on color.
3. Heading levels should only increase by one.
4. Aside should not be contained in another landmark.
5. Landmarks should contain all page content.
6. Hidden content on the page should be analyzed.
7. Control text lacks a 4.5:1 contrast ratio on hover or focus.
8. Function cannot be performed by keyboard alone.
9. ARIA-hidden = True is misused.
10. Role: The element's role is missing or incorrect.
11. Text alternative is missing.

19. The 11 issues identified above point to specific problems with the Defendant's website. These issues include:

- A. Images are complex for visually impaired users to interpret because of the color contrast, aspect ratio, and lack of alternate text that a screen reader can read.
- B. Programming elements such as improper headings and ARIA statements make it difficult for assistive technologies to interpret the website and provide a fluid, meaningful interaction for the impaired user.
- C. The Defendant's website is not designed to permit navigation through the keyboard alone. This failure in design makes it difficult for impaired users to navigate the Defendant's website.

20. As stated above, FDS uses tools provided by Deque.com as part of its audit. These tools help the reader contextualize the seriousness of the issues by understanding their weight. The Deque Scorecard is presented below.

21. The Deque Scorecard identified **259 issues** and categorized them as follows:

Critical	Serious	Moderate	Minor	Color Contrast	Other
111	18	17	0	3	110

To better understand the categories provided above, the following descriptions are provided:

- a. **Critical** - This issue results in blocked content for people with disabilities and will partially prevent them from accessing fundamental features or content. This type of issue puts your organization at risk.
 - b. **Serious**—This issue results in barriers for people with disabilities and partially prevents them from accessing fundamental features or content. As a result, people relying on assistive technologies will experience significant frustration.
 - c. **Moderate** - This issue creates barriers for people with disabilities but will prevent them from accessing fundamental features or content.
 - d. **Color Contrast**—This issue results from an organization not ensuring a proper ratio between the foreground and background of text and pictures. The correct ratio must be 4.5:1 for standard text and 3:1 for large text. Failure to meet this standard creates barriers for disabled users, especially visually impaired users.
 - e. **Other**—This issue identifies issues based on what has been determined as a best practice. When taken into account along with items a. through d., a minor problem could be elevated to a critical or severe barrier.
22. The issues listed above and referenced by the automated testing (**259 issues**) identify barriers that would prevent a disabled person from using and enjoying the Defendant's website. A more detailed report of the problems is attached as **Exhibit 2**.
23. The Defendant provided the Affidavit of Brandon Shaw.
24. Mr. Shaw is the Director of Product Development for Advice Media, the developer of the Defendant's website.
25. Mr. Shaw provides a variety of reasons for his client's (the Defendant) compliance with WCAG. They include:

- a. Defendant has photos that do not have proper descriptions. Mr. Shaw says the photos are described as before or after but cannot include a description of the contents.
 - b. Mr. Shaw stated that the issues with the form on the Defendant's website did exist, but it was repaired, so this was a non-issue.
 - c. Mr. Shaw states that the design and use of landmarks are proper and work with screen readers.
 - d. Mr. Shaw also states that the slide elements inform the user, through the screen reader, when a slide changes.
26. Besides Mr. Shaw's Affidavit, the Defendant's website is supported by AccessiBe.
27. AccessiBe's "Accessibility Widget" is installed on the website and was engaged during FDS' access and testing.
28. FDS testing of the website while the AccessiBe Widget was engaged presents a different picture than the website presented by Mr. Shaw and the AccessScan performed by AccessiBe.
29. Although Mr. Shaw describes the website as WCAG compliant, he does not present any supporting documentation regarding his methods or, more importantly, his results.
30. The Defendant's website has an Accessibility Policy provided through the AccessiBe widget.
31. As it relates to Accessibility Policies, the DOJ stated:

Recipients are not required to take action that would constitute a fundamental alteration like a program or activity or an undue financial or administrative burden. As discussed in the NPRM,¹³⁷ and consistent with DOJ's 2022 guidance on web accessibility¹³⁸ and DOJ's recent proposed title II rulemaking, "Nondiscrimination based on Disability: Accessibility of Web Information and Services of State and Local Government Entities,"¹³⁹ the Department does not believe that a phone line, even if staffed 24 hours a day, can realistically provide equal opportunity to people. Websites and often mobile apps – allow members of the public to get information or requests for a service within just a few minutes, and usually to do so independently. Getting the same information or requesting the same service using a staffed phone line takes longer, resulting in wait times or difficulty getting the information. In addition, a staffed telephone line may not be accessible to someone who is deafblind or may have combinations of other disabilities, such as a coordination issue impacting typing and an audio processing disability impacting comprehension over the phone. However, such individuals may be able to use web content and mobile apps that are accessible.

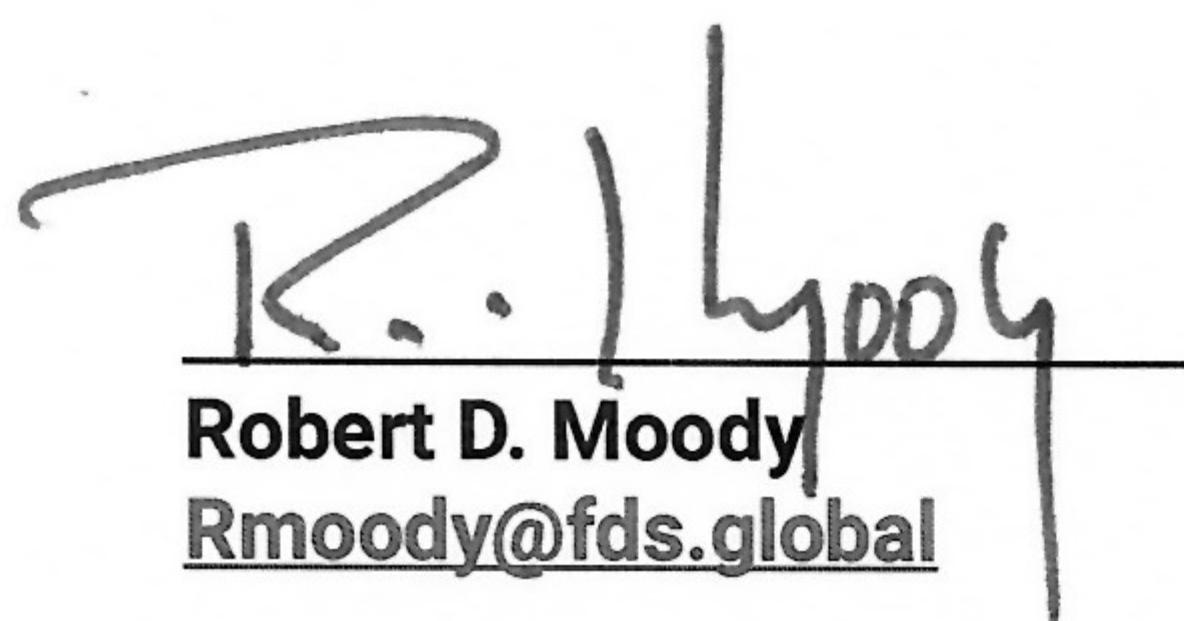
Conclusion:

32. The issues identified by the Plaintiff involve design, logic, and structural flaws in the website.
33. Specifically, Plaintiff identified issues with embedded links not operating as expected, the inability to obtain full product descriptions, and the mislabeling of images, which included missing alternate or incomplete texts.
34. As for FDS testing, the issues identified by the Plaintiff were found to exist and continue to exist today.

35. Even though Defendant has deployed an accessibility widget, running the widget as directed by Defendant did not resolve the underlying programmatic, design, and logic issues that plague this website.
36. Accessibility widgets do not magically repair or patch issues with code, missing items, or misapplied programming elements. They are designed as overlays, allowing users to add or enhance features they may need to tweak to enjoy the user experience.
37. Unfortunately, the repairs and workarounds, as claimed by the Defendant, did not fix the problems.
38. FDS testing shows numerous issues specific to WCAG, referenced in Exhibit 2.
39. Given all of the above and considering the issues identified, I can say with a high degree of scientific certainty that the website <https://www.drdavidhidalgo.com> has defects. These defects serve as barriers that create problems for visually disabled persons and have a direct and immediate effective use and enjoyment of the site for persons with low to no vision. Furthermore, as found on the Defendant's website, these defects do not comply with WCAG 2.0/2.1.
40. Accordingly, I reserve the right to update, alter, change, delete, and supplement this declaration in the alternative file if provided with additional relevant material.

DECLARANT FURTHER SAYETH NOT.

Under penalty of perjury, I affirm that the preceding statements are true and correct.



Robert D. Moody
Rmoody@fds.global

Date: 19 August 2024

ADA ISSUES REPORT FOR:					
HTTPS://WWW.DRDAVIDHIDALGO.COM					
REPORT DATE: 19 AUGUST 2024					
Item #	Rule ID	Impact	Source Code	Tags	
1	color-contrast	serious	<h3 class="ubab-l1-title title-center"> ■CBR</h3>	cat.color,wcag2aa,wcag143,TTv5,TT13.c,EN-301-549,EN-9.1.4.3,ACT	
2	color-contrast	serious	<h3 class="ubab-l1-title title-center"> ■REAST</h3>	cat.color,wcag2aa,wcag143,TTv5,TT13.c,EN-301-549,EN-9.1.4.3,ACT	
3	color-contrast	serious	<h3 class="ubab-l1-title title-center"> ■ODV</h3>	cat.color,wcag2aa,wcag143,TTv5,TT13.c,EN-301-549,EN-9.1.4.3,ACT	
4	link-in-text-block	serious	 MyAdvice	cat.color,wcag2aa,wcag141,TTv5,TT13.a,EN-301-549,EN-9.1.4.1	
5	heading-order	moderate	<h3 class="fl-slide-title">Google</h3>	cat.semantics,best-practice	
6	landmark-complementary-is-top-level	moderate	<aside class="footer-widget-area widget-area site-footer-focus-item" data-section="sidebar-widgets-footer-widget-1" aria-label="Footer Widget 1">	cat.semantics,best-practice	
7	landmark-complementary-is-top-level	moderate	<aside class="footer-widget-area widget-area site-footer-focus-item" data-section="sidebar-widgets-footer-widget-2" aria-label="Footer Widget 2">	cat.semantics,best-practice	
8	landmark-complementary-is-top-level	moderate	<aside class="footer-widget-area widget-area site-footer-focus-item" data-section="sidebar-widgets-footer-widget-3" aria-label="Footer Widget 3">	cat.semantics,best-practice	
9	region	moderate	<div class="fl-col-group fl-node-603952b5433fb" data-node="603952b5433fb">	cat.keyboard,best-practice	
10	region	moderate	<h3 class="fl-slide-title">Google</h3>	cat.keyboard,best-practice	
11	region	moderate	<picture decoding="async" class="alignnone">	cat.keyboard,best-practice	
12	region	moderate	<div class="fl-content-slider-navigation" aria-label="Content Slider Buttons">	cat.keyboard,best-practice	
13	region	moderate	<div class="fl-col-group fl-node-5f167f6ba703" data-node="5f167f6ba703">	cat.keyboard,best-practice	
14	region	moderate	<div class="fl-module fl-module-heading fl-node-5f762b95f7ab" data-node="5f762b95f7ab"> <div class="fl-module-content fl-node-content"> <h2 ><="" class="fl-heading" h2=""> Contact Us </div> </div></h2>	cat.keyboard,best-practice	
15	region	moderate	<div id="fl-icon-text-5f762bed730" class="fl-icon-text fl-icon-text-wrap"> ■p>655 Park Avenue New York, NY 10065</p>■div>	cat.keyboard,best-practice	
16	region	moderate	<div id="fl-icon-text-5f7630a8d300b" class="fl-icon-text fl-icon-text-wrap"> ■p>(212) 517-9777</p>■div>	cat.keyboard,best-practice	
17	region	moderate	<div class="fl-module fl-module-rich-text fl-node-5f7631572b401" data-node="5f7631572b401"> <div class="fl-module-content fl-node-content"> <div class="fl-rich-text"> <div>Hours: 9am - 5pm</div> <div>Monday - Friday</div> <div></div> <div></div> </div> </div>	cat.keyboard,best-practice	
18	region	moderate	<div class="fl-col-group fl-node-5f7c67c720d69" data-node="5f7c67c720d69">	cat.keyboard,best-practice	
19	region	moderate	Follow on Instagram	cat.keyboard,best-practice	
20	region	moderate		cat.keyboard,best-practice	
21	region	moderate	<div class="layout-right-footer-icons icon-right-sticky">	cat.keyboard,best-practice	
22	aria-prohibited-attr	Other	<div class="fl-content-slider-navigation" aria-label="Content Slider Buttons">	cat.aria,wcag2aa,wcag412,EN-301-549,EN-9.4.1.2	
23	hidden-content	Other	<div id="ast-desktop-header" data-toggle-type="dropdown">	cat.structure,best-practice,experimental,review-item	
24	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
25	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
26	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
27	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
28	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
29	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
30	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
31	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
32	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
33	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
34	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
35	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
36	hidden-content	Other	<svg class="ast-mobile-svg ast-close-svg" fill="currentColor" version="1.1" xmlns="http://www.w3.org/2000/svg" width="24" height="24" viewBox="0 0 24 24"> <circle class="ast-mobile-header-content content-align-flex-start" r="50%" cx="50%" cy="50%" fill="white" stroke="black" stroke-width="1px" stroke-linecap="round" stroke-linejoin="round"/>	cat.structure,best-practice,experimental,review-item	
37	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
38	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
39	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
40	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
41	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
42	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
43	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
44	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
45	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
46	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
47	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
48	hidden-content	Other		cat.structure,best-practice,experimental,review-item	
49	hidden-content	Other	<ul class="sub-menu">	cat.structure,best-practice,experimental,review-item	
50	hidden-content	Other	<header id="ast-fixed-header" class="site-header ast-primary-submenu-animation-fade header-main-layout-2 ast-primary-menu-enabled ast-hide-custom-menu-mobile ast-builder-menu-toggle-icon ast-mobile-header-inline ast-sticky-shrunk" style="visibility: hidden; opacity: 0; data-type="fixed-header" data-stick-support="on" data-stick-maxwidth="350">	cat.structure,best-practice,experimental,review-item	
51	hidden-content	Other	<div id="ast-desktop-header" data-toggle-type="dropdown">	cat.structure,best-practice,experimental,review-item	
52	hidden-content	Other		cat.structure,best-practice,experimental,review-item	

130	hidden-content	Other	<p class="sbi-screenreader">Previous Slide</p>	cat.structure,best-practice,experimental,review-item
131	hidden-content	Other	<p class="sbi-screenreader">Next Slide</p>	cat.structure,best-practice,experimental,review-item
132	hidden-content	Other	<p class="sbi_lightbox_tooltip_sbi_tooltip_social">	cat.structure,best-practice,experimental,review-item
133	hidden-content	Other	<div id="sbi_mod_link" class="sbi_lightbox_action">fa fa-times</div><div id="sbi_mod_box" class="sbi_lightbox_tooltip" Add ID to the Hide Specific Photos setting: </div>	cat.structure,best-practice,experimental,review-item
134	hidden-content	Other	<p id="sbi_mod_box" class="sbi_lightbox_tooltip">Add ID to the Hide Specific Photos setting: </p>	cat.structure,best-practice,experimental,review-item
135	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
136	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
137	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
138	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
139	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
140	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
141	contrast-link-infocus-4.5-1	serious	Testimonials	wcag2aa,wcag143a
142	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
143	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
144	contrast-link-infocus-4.5-1	serious		wcag2aa,wcag143a
145	contrast-link-infocus-4.5-1	serious	Accessibility	wcag2aa,wcag143a
146	contrast-link-infocus-4.5-1	serious	Privacy Policy	wcag2aa,wcag143a
147	contrast-link-infocus-4.5-1	serious	Terms of Use	wcag2aa,wcag143a
148	contrast-link-infocus-4.5-1	serious	Sitemap	wcag2aa,wcag143a
149	keyboard-inaccessible	critical	<p>	wcag2aa,wcag211a
150	keyboard-inaccessible	critical		wcag2aa,wcag211a
151	keyboard-inaccessible	critical		wcag2aa,wcag211a
152	keyboard-inaccessible	critical		wcag2aa,wcag211a
153	keyboard-inaccessible	critical		wcag2aa,wcag211a
154	keyboard-inaccessible	critical		wcag2aa,wcag211a
155	keyboard-inaccessible	critical		wcag2aa,wcag211a
156	keyboard-inaccessible	critical		wcag2aa,wcag211a
157	keyboard-inaccessible	critical		wcag2aa,wcag211a
158	keyboard-inaccessible	critical		wcag2aa,wcag211a
159	keyboard-inaccessible	critical		wcag2aa,wcag211a
160	keyboard-inaccessible	critical		wcag2aa,wcag211a
161	keyboard-inaccessible	critical		wcag2aa,wcag211a
162	keyboard-inaccessible	critical		wcag2aa,wcag211a
163	keyboard-inaccessible	critical		wcag2aa,wcag211a
164	keyboard-inaccessible	critical		wcag2aa,wcag211a
165	keyboard-inaccessible	critical		wcag2aa,wcag211a
166	keyboard-inaccessible	critical		wcag2aa,wcag211a
167	keyboard-inaccessible	critical		wcag2aa,wcag211a
168	keyboard-inaccessible	critical		wcag2aa,wcag211a
169	keyboard-inaccessible	critical		wcag2aa,wcag211a
170	keyboard-inaccessible	critical		wcag2aa,wcag211a
171	keyboard-inaccessible	critical		wcag2aa,wcag211a
172	keyboard-inaccessible	critical		wcag2aa,wcag211a
173	keyboard-inaccessible	critical		wcag2aa,wcag211a
174	keyboard-inaccessible	critical		wcag2aa,wcag211a
175	keyboard-inaccessible	critical		wcag2aa,wcag211a
176	keyboard-inaccessible	critical		wcag2aa,wcag211a
177	keyboard-inaccessible	critical		wcag2aa,wcag211a
178	keyboard-inaccessible	critical		wcag2aa,wcag211a
179	keyboard-inaccessible	critical		wcag2aa,wcag211a
180	keyboard-inaccessible	critical		wcag2aa,wcag211a
181	keyboard-inaccessible	critical		wcag2aa,wcag211a
182	keyboard-inaccessible	critical		wcag2aa,wcag211a
183	keyboard-inaccessible	critical		wcag2aa,wcag211a
184	keyboard-inaccessible	critical		wcag2aa,wcag211a
185	keyboard-inaccessible	critical		wcag2aa,wcag211a
186	keyboard-inaccessible	critical		wcag2aa,wcag211a
187	semantic-hidden	critical	<svg class="ast-mobile-svg ast-menu-svg" fill="currentColor" version="1.1" xmlns="http://www.w3.org/2000/svg" width="24" height="24" viewBox="0 0 24 24" aria-hidden="true" data-acsb-hidden="true">	wcag2aa,wcag132a

239	alt-text-missing	critical	<svg class="ast-mobile-svg ast-menu-svg" fill="currentColor" version="1.1" xmlns="http://www.w3.org/2000/svg" width="24" height="24" viewBox="0 0 24 24" aria-hidden="true" data-acsb-hidden="true">	wcag2a,wcag11b
240	aria-role-missing	critical	<svg class="ast-mobile-svg ast-menu-svg" fill="currentColor" version="1.1" xmlns="http://www.w3.org/2000/svg" width="24" height="24" viewBox="0 0 24 24" aria-hidden="true" data-acsb-hidden="true">	wcag2a,wcag412b
241	alt-text-missing	critical		wcag2a,wcag11b
242	alt-text-missing	critical		wcag2a,wcag11b
243	alt-text-missing	critical		wcag2a,wcag11b
244	aria-role-missing	critical	<svg version="1.1" xmlns="http://www.w3.org/2000/svg" xmlns:xlink="http://www.w3.org/1999/xlink" viewBox="0 0 512 512" aria-hidden="true" data-acsb-hidden="true">	wcag2a,wcag412b
245	aria-role-missing	critical	<svg version="1.1" xmlns="http://www.w3.org/2000/svg" xmlns:xlink="http://www.w3.org/1999/xlink" viewBox="0 0 512 512" aria-hidden="true" data-acsb-hidden="true">	wcag2a,wcag412b
246	aria-role-missing	critical	<svg version="1.1" id="am-svg-facebook" class="am-social-svg am-social-facebook" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
247	aria-role-missing	critical	<svg version="1.1" id="am-svg-twitter" class="am-social-svg am-social-twitter" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
248	aria-role-missing	critical	<svg version="1.1" id="am-svg-google" class="am-social-svg am-social-google" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
249	aria-role-missing	critical	<svg version="1.1" id="am-svg-youtube" class="am-social-svg am-social-youtube" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
250	aria-role-missing	critical	<svg version="1.1" id="am-svg-instagram" class="am-social-svg am-social-instagram" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
251	aria-role-missing	critical	<svg version="1.1" id="am-svg-facebook" class="am-social-svg am-social-facebook" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
252	aria-role-missing	critical	<svg version="1.1" id="am-svg-twitter" class="am-social-svg am-social-twitter" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
253	aria-role-missing	critical	<svg version="1.1" id="am-svg-google" class="am-social-svg am-social-google" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
254	aria-role-missing	critical	<svg version="1.1" id="am-svg-youtube" class="am-social-svg am-social-youtube" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
255	aria-role-missing	critical	<svg version="1.1" id="am-svg-instagram" class="am-social-svg am-social-instagram" x="0px" y="0px" viewBox="0 0 32 32" aria-hidden="true" data-acsb-hidden="true" data-acsb-hover="true">	wcag2a,wcag412b
256	alt-text-missing	critical	<div class="fl-col-content fl-node-content" data-rocket-lazy-bg=c99dd9db-6644-4ba3-9b3e-13838d253005>	wcag2a,wcag11b
257	aria-role-missing	critical	<div data-testid="base-icon-svg" style="">>	wcag2a,wcag412b
258	aria-role-missing	critical	<div data-testid="base-icon-svg" data-rocket-lazy-bg=c99dd9db-6644-4ba3-9b3e-13838d253005>	wcag2a,wcag412b
259	alt-text-missing	critical	<body itemtype="https://schema.org/WebPage" itemscope="itemscope" class="home page-template-default page page-id-773 wp-custom-logo am-sticky-footer-active ft-builder ft-builder-2-8-3-1 wp-schema-pro-2.7.18 ast-page-builder-template ast-no-sidebar astra-4.7.2 ast-single-post ast-mobile-inherit-site-logo ast-inherit-site-logo-transparent ast-hfb-header ast-full-width-primary-header ast-full-width-layout ast-sticky-main-shrink ast-sticky-above-shrink ast-sticky-below-shrink ast-sticky-header-shrink ast-inherit-site-logo-sticky ast-sticky-custom-logo ast-primary-sticky-enabled astra-addon-4.7.2 ast-header-break-point eqtCr_side_left ft-builder-breakpoint-small acsb-keynav ast-primary-sticky-header-active ast-above sticky-header-active ast-below sticky-header-active" style="screen_capture_injected=true" id="yui_3_18_1_1_1724093825830_300">	wcag2a,wcag11b



Robert D. Moody



Certified Information
Systems Auditor® (CISA)
ISACA



Certified Information
Security Manager®
(CISM)
ISACA

Contact Information

Robert D. Moody

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Education

Nova Southeastern University, Broward County Florida, Bachelor of Science, 1990

St. Thomas University School of Law, Miami-Dade County Florida, Juris Doctorate, 1993

Oxford University, Oxford England, PGDip – Global Business, 2017

Certification

Certified as an Information Systems Auditor (CISA), Information Systems Audit and Control Association, 2002

Certified as an Information Security Manager (CISM), Information Systems Audit and Control Association, 2003

Certified in Computer Forensics, Oregon State University, 2003

Certified as an Access Data Certified Examiner (ACE), Access Data Corporation, 2009, 2015

Certification in Cell Record and Cell Tower Analysis, FMS Group, UK, 2015

Certified in Blockchain Essentials, eCornell, Cornell University, 2021

Forensic Explorer Certified Examiner (FEXCE), GetData Forensics, 2022

ADA / Website Accessibility Training

Web Accessibility (2019)

Learn the Best Practices, Tools, and Techniques (2019)

Testing: - Selenium, BDD, Axe, Pa11y, Jaws, NVDA (2019)

Creating Accessible Websites (2019)

HTML (2020)

Create Mobile Friendly Web Apps with HTML (2020)

Web Content Accessibility Guidelines (WCAG 2.1) Simplified (2019)

Introduction to UX Design for Accessibility and WCAG 2.0 (2020)

Technological Adaptability (2020)

What to look for in an Accessibility Audit (2020)

The ROI of Digital Accessibility (2020)

What to Expect from an Accessibility Audit (2020)

Accessibility and Compliance: How to Measure Digital Accessibility (2020)

Introduction to Screen Readers (2020)

Android Native Mobility Accessibility (2020)

iOS Native Mobility Accessibility (2020)

Customer Service for People with Disabilities (Curriculum) 2023

Serving Customers with Disabilities (2023)

Disability Etiquette Basics (2023)

Effective Communication (PT1 – In Person) (PT2 – Remote) 2023

Angular Accessibility (Issues, Framework, and Testing) 2023

Organizations / Associations

Information Systems Audit and Control Association (ISACA)

International Association of Accessibility Professionals (IAAP)

ADA Court Opinions

Fuller v. Things Remembered, Inc., Case No. 19-civ-62034-Gayles/Strauss (Southern District of Florida) (Performed expert services on behalf of [visually impaired?] plaintiff regarding [website compliance?] by the defendant)

Ariza v. Untuckit, LLC, 19-cv-24291-Bloom/Louis (Southern District of Florida) (Performed expert services on behalf of visually impaired plaintiff regarding website compliance by the defendant)

Fernandez v. Shop 601, LLC, Case No. 20-cv-80713 (Southern District of Florida) (Performed expert services on behalf of visually impaired and physically disabled plaintiff regarding website compliance by the defendant)

Paguada v. Yieldstreet Inc., 20-civ-9254-LGS (Southern District of New York) (Performed expert services on behalf of visually impaired, legally blind plaintiff regarding website compliance by the defendant)

Jaquez v. Aqua Carpatica USA, Inc., 20-cv-8487-ALC (Southern District of New York) (Performed expert services on behalf of visually impaired plaintiff regarding website compliance by the defendant)

Angeles v. Grace Products, Inc., 20-cv-10167-AJN (Southern District of New York) (Performed expert services on behalf of legally blind plaintiff regarding website compliance by the defendant)

Quezada v. U.S. Wings, Inc., 20-cv-10707-ER (Southern District of New York) (Performed expert services on behalf of legally blind plaintiff regarding website compliance by the defendant)

Ariza v. South Moon Sales, 21-cv-23604-Williams/McAliley (Southern District of Florida) (Performed expert services on behalf of visually impaired plaintiff regarding website compliance by the defendant)

Fernandez v. Sunday State, Case No. 22-cv-80653-RS (Southern District of Florida) (Performed expert services on behalf of visually impaired and physically disabled plaintiff regarding website compliance by the defendant)

Guerrero v. Ogawa USA Inc., 22-civ-2583-LGS (Southern District of New York) (Performed expert services on behalf of visually impaired and legally blind plaintiff regarding website compliance by the defendant)

Ariza v. Wolf Fashion, LLC, 22-cv-21944-Bloom/Otazo-Reyes (Southern District of Florida) (Performed expert services on behalf of visually impaired plaintiff regarding website compliance by the defendant)

Ariza v. Casablanco Mattress & Furniture Gallery, LLC, 22-cv-23759 (Southern District of Florida) (Performed expert services on behalf of visually impaired plaintiff regarding website compliance by the defendant)

Davis v. Wild Friends Foods, Inc., 22-cv-04244-LJL (Southern District of New York) (Performed expert services on behalf of visually impaired and legally blind plaintiff regarding website compliance by the defendant)

Ariza v. Limonada Group, LLC, Case No. 23-cv-20542-RAR (Southern District of Florida) (Performed expert services on behalf of blind plaintiff regarding website compliance by the defendant)

Expert Witness Testimony

Kimberly Bagley, as Personal Representative of the Estate of Horris Lee Moore, deceased v. Maureen Kent Tabor and Jon Tabor, In the Circuit Court of the 18th Judicial Circuit in and For Brevard County, Florida, Case Number 05-2021-CA-051255, Testified at Deposition as to the contents of opposing expert's report and the condition of the Decedent's cellular phone. (Deposition)

State of Florida v. Jacob Bowman In the Circuit Court for the 19th Judicial Circuit in and For St. Lucie, Florida, Case Number 56-2021-CF-002380-A, Testified at the Sentencing Hearing regarding the location of CSAM material and how it was found in that location and who had access to it. (Hearing)

State of Florida v. Charles Mabry, Jr. In the Circuit Court of the Tenth Judicial Circuit, In and For Polk County, Florida, Case No: 53-2019-CF-009050-A000-XX, Testified at a Motion to Suppress regarding the process of Law Enforcement extracting files from a Peer to Peer network and its relevancy given no warrant was obtained for the extraction and viewing. (Hearing)

Juan Alcazar, et al v. Fashion Nova, Inc., United States District Court for the Northern District of California, Case No. 4:20-cv-01434-JST, Testified at deposition regarding the WCAG adherence and ADA compliance of a website. (Deposition)

State of Florida v. Carlos Mendez, In the Circuit Court of the 11th Judicial Circuit In and For Miami-Dade County, Florida Case No: F23-005216, testified regarding the status of a cellular phone power based upon records kept by the carrier and data found on the phone itself. (Deposition)

IN RE: Sheppard, Marjory, In the Circuit Court of the 11th Judicial Circuit In and For Miami-Dade County, Florida, Case No: 2022-000118-CP-02, testified regarding the imaging of an iPhone and the verification of data found on the device by Counsel (Deposition)

United States of America v. Christopher Chappell, In the United States District Court for the Southern District of Florida, Case No. 22-60148-CR-SMITH, testified at the Sentencing Hearing as to the lack of CSAM on the Defendant's devices and to the condition of metadata from mobile devices that contradicted the testimony of the Government's witnesses. (Hearing)

State of Florida v. Joseph Baldino, In the Circuit Court of the 19th Judicial Circuit In and For St. Lucie County, Florida, Case No. 562011CF1300, Case on Appeal, Testified as to work I performed in support of Defendant's appeal.(Deposition)

State of Florida v. Michael Tateishi, In the Circuit Court of the 10th Judicial Circuit, In and For Polk County Florida, Case No. 2020-CF009494, testified as to the need to inspect evidence and the protocol for doing so when evidence contained CSAM. (Hearing)

Dean Allen Burri, et al v. EBS South, Inc., et al., In the Circuit Court of the 11th Judicial Circuit, in and for Miami-Dade County, Florida (Civil Division), Case No. 2021-004363-CA-01, Testified as to different issues that occurred in the case. (Multiple Hearings)

Latasha West v. Moral Foods, LLC., In the Circuit Court of the 17th Judicial Circuit, In and For Broward County, Florida, Case No.: CACE-14-017346 (09), Testified as to the process and analysis associated with surveillance video footage provided by Defendant. (Deposition)

Coastal Construction Company of Palm Beach, Inc. d/b/a Coastal Construction of Palm Beach v. Roll Plumbing Company, Inc., In the Circuit Court for the 11th Judicial Circuit, In and for Miami-Dade County, Florida, Case No.: 08-56455-CA-23, Testified at Evidentiary Hearing regarding the destruction of data and the likelihood of valuable evidence existing if the hard drive had not been tampered with. (Hearing)

Jason Lee and Fine Marketing Solutions, LLC v. Kenneth A. Orr, Evan H. Berger, Triumph Small Cap Fund, Inc. J.D. Lauren, Inc. Solar Grid Capitol, Inc. and Ecologix Resource Group, Inc., In the Circuit Court for the 11th Judicial Circuit, In and For Miami-Dade County, Florida, Case No.: 2012-031582-CA-01, Testified at Evidentiary Hearing regarding the process for examining evidence. (Hearing)

C.T. and L.T. individually and as parents and Guardians of B.T., a minor v. A.S. and M.S. and SS, a Minor, In the United States District Court for the Southern District of Florida ... Records Sealed. (Hearings)

Mary Laurine Umstead v. Horizon Bay Mgt, LLC, et al., In the Circuit Court of the 13th Judicial Circuit of the State of Florida in and For Hillsborough County, Circuit Civil, Testified at Trial as to whether or not the information contained in an Electronic Medical Record system was accurate and whether or not certain operational practices were followed. (Trial)

In Re: Rothstein Rosenfeld and Adler, US Bankruptcy Court for the Southern District of Florida, Case No. : 09-34791-BKC-RBR, Testified at Evidentiary Hearing to qualifications and to be appointed as the Court's expert. Accepted as an Expert and appointed to address complex technical issues facing the Court and issued a report on the same. (Hearing)

United States of America v. Michael Meister, United States District Court Middle District of Florida, Case No. 8:10-CR-339-T-26AEP, Testified at an Evidentiary Hearing regarding the complex issues involved in the collection, and preservation, review, and analysis associated with the Government's case. (Hearing)

United States of America v. William Vazquez Rivera, In the United States District Court for the District of Puerto Rico, Criminal Number 09-361 (JAF), Testified at Trial regarding issues with identifying the specific location of a computer as well as identifying the individual who was at the computer at a specific date and time. (Trial)

Mathew Beck, et al. v. Boce Group, LLC d/b/a Next Café, et al. US District Court for the Southern District of Florida, Case No.: 04-20683-CIV-Cooke, testified regarding the destruction of computer data, the existence of an audit trail, and the possible manipulation of time-keeping records. (Deposition and Trial)

Health Trio v. Ralph Korpman, et al. In the Chancery Court for Davidson County, Tennessee, 20th Judicial District, Civil Action No., 05-559-111, Testified on the potential destruction of evidence, a possible violation of a court order preserving all information on the computer, and the possible destruction of evidence through the use of file scrubbing software. (Deposition and Trial)

William P. Planes, Sr. y. Rocky Shirey, et al., In the Circuit Court for the 6th Judicial Circuit in and for Pinellas County, Florida, Case No.: 06-9077-CI-19, Testified at Evidentiary Hearing regarding issues involving the identification and preservation of data belonging to the Defendants. (Hearing)

Jan Bronstein v. Marc Bronstein, United States District Court, Southern District of Florida, Case No.: 0680656, Testified at deposition regarding the ownership and go-live date of a company's website and its domain. (Deposition)

In Re: The Marriage of Stuart Pressman and Wendy Bulgrin. In the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida, Case No.: 06-008172, Testified on topics that included the collection, preservation, and processing of data stored within a Point-of-Sale System used by the couple's business and inventory issues. (Evidentiary Hearing, Deposition, and Trial)

Building Education Corporation v. Jose Manuel Fernandez, et al. In the Circuit Court of the 11th Judicial Circuit in and for Miami Dade County, Florida, Case No.: 03-15909 CA 09, Testified at Evidentiary Hearing providing information to the Court for possible selection as a neutral expert in the investigation and tracking ESI through a large IT infrastructure. (Hearing)

Microsoft Corporation V. Big BQY Distribution, LLC/ In the United States District Court in and for the Southern District of Florida, Case No.: 07-80296-CIV-Hurley/Vitunac, testified at deposition regarding the examination of Plaintiff's expert's report and the methods used by the said expert in coming to their conclusions. (Deposition)

Orlando/Orange County Expressway Authority v. Tuscan Ridge, et al., In the Circuit Court of the 9th Judicial Circuit in and for Orange County, Florida, Case No.: 2006-CA-006250-O, Testified at Evidentiary Hearing regarding establishing the true and correct Metadata information associated with computer files created by an expert in an Eminent Domain action. (Hearing)

Med Qata Infotech USA, Inc. v. Unnikrishnan Thankappan, et al., In the Circuit Court of the 6th Judicial Circuit in and for Pasco County, Florida. Case No.: 51-2004-CA-00321WS, testified at deposition regarding the contents of several hard drives containing information relating to computer software created by Plaintiff. (Deposition)

Contractors, Inc. v. Turner Construction Company, et al. In the Circuit Court of the 11th Judicial Circuit, in and for Miami-Dade County, Florida, Complex Business Litigation Section, Case No.: 02-32516CA-40, Testified at Evidentiary Hearing regarding addressing the collection, preservation, processing, analysis, and possible destruction of evidence. (Hearing)

Benjamin J. Philips, III y. Oracle USA, Inc: In the Circuit Court of the 4th Judicial Circuit, in and for Duval County, Florida, Case No.: 16-2007-CA-006905-XXXX-MA, Division CV-E, Testified at Evidentiary Hearing regarding issues surrounding the destruction of evidence from a company-owned laptop used by Plaintiff. (Hearing)

Jessica Lane v. Adam Gerry. In the Circuit Court for the 20th Judicial Circuit in and for Collier County, Florida, Civil Action No. 08-9521-CA, testified at deposition regarding issues

surrounding the disappearance of a laptop and the information found on the device after it had been recovered. (Deposition)

The Florida Bar v. Jeremy W. Alters, In and for the Supreme Court of Florida (Before a Referee) Supreme Court Case No.: SC14-100, Testified at Trial regarding cellphone data being deleted and the process for examining evidence. (Trial)

Teaching and lectures by Topic

- CLE Presentation "Interpreting the data collected from monitoring devices"
- FBI Retired Agent's Event – "What one can recover from a mobile device."
- Adjunct Professor – IE Business School, Madrid Spain, master's in cyber security, my area of responsibility is in Digital Forensics and Computer Crimes.
- Computer Forensic Issues Important to the Criminal Defense Bar. Private event sponsored by FDS. In May 2016, Event provided instruction on six different forensic challenges facing criminal defense attorneys in practice.
- Mobile Devices and BYOD/CYOD: the eDiscovery Challenges, Panelist, LawTech Europe Congress 2015 Conference, October 2015.
- The Lifecycle of Electronic Evidence - Have We Finally Got it Right? Panelist, LawTech Europe Congress 2015 Conference, October 2015.
- Cellular Phone Tracking Via Cell Towers - Dispelling the Postmortem Analysis Myth, 7th European Academy of Forensic Science Conference, September 2015.
- Digital Security and the Dangers Facing Every Employer, 7th European Academy of Forensic Science Conference, September 2015.
- Cellular Phone Tracking Via Cell Towers – Dispelling the Postmortem Analysis Myth, High Technology Crime Investigation Association, August 2015.
- 48 Hours of a Cyber Security Breach – What to Do from a Technical Standpoint: A First Responder Case Study, The Daily Business Review's Corporate Counsel Summit, May 2015.
- Data Security: What is a RAT? (Remote Access Trojan), Daily Business Review's Corporate Counsel Summit, November 2014.

- Data Security, Keeping Your Database, Customer Information and Other Proprietary Information Safe and What to Do If There Is A Security Breach, Daily Business Review's Corporate Counsel Summit, April 2013.
- Data Security, LawTech Miami, November 2013.

Publications

- Globalization and Data Protection – An Analysis of Practicality, PGDIP – Global Business, Oxford University, February 2017.
- Electronic Discovery – 21st Century Road map, Georgia Defense Lawyers Association Periodical, May 2006.
- Firms Face Forensic Challenge, South Florida Business Journal, May 2006.
- Electronic Discovery: A Smart Five-Step Approach, South Florida Legal Guide, November 2006, Reprinted 2007.
- What Every Business Needs to Know about Evidence Preservation and Electronic Discovery Issues, September 2007.
- Forensic Times Newsletter, 2007 & 2008. (Trade Publication produced by firm)
- Discovery Requests: Knowing when and how to proceed can save thousands and the case, Smart Business, May 2008.
- How to obtain information from an Internet Service Provider, 2016.